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BY ECF

April 2, 2014

The Honorable John Gleeson
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *United States v. Agron Hasbajrami*
Criminal Docket No. 11-cr-623 (JG)
Civil Docket No. 13-cv-6852 (JG)

Dear Judge Gleeson:

I write to provide the Court with an update on the status of the two cases referenced above.

Background

On February 24, 2014, the government sent the defendant, Agron Hasbajrami, a letter supplementing their original Foreign Intelligence Surveillance Act ("FISA") notice, which was filed on September 13, 2011. The supplemental notice informed the defendant that, "pursuant to 50 U.S.C. §§ 1806(c) and 1881e(a), the government intended to offer into evidence or otherwise use or disclose in proceedings in the above-captioned matter information derived from acquisition of foreign intelligence information conducted pursuant to the Foreign Intelligence Surveillance Act of 1978." The letter/notice also advised Mr. Hasbajrami that the decision to provide him with additional disclosure was "based on a recent determination by the government that certain evidence or information obtained or derived from Title I and Title III FISA collection in this case was itself also derived from other collection pursuant to Title VII of FISA as to which [he was] aggrieved."

Counsel has since learned that there are just two other cases besides Hasbajrami, nationwide, in which the government has filed such a supplemental notice. United States v. Mohamud, 10-cr-475 (KI), is pending in the District of Oregon, and United States v. Muhtorov, 12-cr-33 (JLK), in the District of Colorado. Mohamud is post trial but presentence while Muhtorov is in pretrial discovery proceedings.

As scheduled, on March 29, 2014, we met with our client to discuss the supplemental FISA notice and he made it clear that he wanted to proceed with a demand for discovery. He has also agreed to be relocated to the Eastern District of New York and we have asked the attorney for the government to facilitate his transfer.

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In addition to the meeting with Mr. Hasbajrami, the parties have continued to hold informal discussions about how best to proceed. Following our meeting with Mr. Hasbajrami, we advised the attorney for the government, Assistant United States Attorney, Seth DuCharme, that we intended to make a specific written demand for disclosure of the material that had not been previously provided to the defense. Unless things change in the next few days, it is likely that the government will oppose any further disclosure. If so, the defense would then move to compel.

Under the circumstances, we believe that it would be prudent for the parties to continue negotiating for a short time longer. If the Court is inclined to agree, the parties would provide a further update on April 9, 2014. At that time, it is currently anticipated that the parties would also submit a proposed briefing schedule for any issues that the Court and/or the parties deemed appropriate. I have discussed this request with Mr. DuCharme and he advises me that the government joins.¹

I trust that this is satisfactory.

Thank you for your consideration in this matter.

Respectfully submitted,

Steve Zissou

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cc: Seth Ducharme, AUSA

¹The defense will submit a proposed budget under separate cover.